

MAY 17 2001

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MEMORANDUM FOR DIRECTOR, WARRANTS AND FORFEITURES SECTION
(CRIMINAL INVESTIGATION)

FROM: Nancy J. Jardini *JS*
Division Counsel/Associate Chief Counsel (Criminal Tax)

SUBJECT: Use of Tax Return Information To Locate IRS Fugitives and
Wanted Persons

This responds to your e-mail request for advice, dated March 5, 2001, regarding the practice of using tax return information to help locate IRS fugitives and wanted persons. The facts you provided indicated that on a monthly basis the Criminal Investigation (CI) TECS/NCIC coordinator would send to the Ogden Service Center lists of IRS fugitives and wanted persons generated by the TECS and NCIC databases. The individuals on the lists were wanted for both tax and/or money laundering violations. When the lists were received, a file was opened on each new fugitive or wanted person and their names were entered into a database. Freeze codes were then inputted on the individuals' IMF accounts. If a new return was filed or any activity occurred on an account, the Service Center would be alerted and the special agent assigned to the fugitive or wanted person would be contacted. The special agent would then be provided with any and all information he or she requested, including return information. Concerned over potential disclosure issues, your office temporarily suspended this practice.

As the attached memorandum indicates, whether return information may be used to help locate IRS fugitives or wanted persons depends on whether the fugitive or wanted person is wanted for a tax violation or a non-tax violation. In the former case, where the underlying offense for which the fugitive or wanted person is sought is a Title 26 offense, tax or related Title 18 offense, such as 18 U.S.C. § 1001 or 18 U.S.C. § 371, return information may be disclosed to special agents. In those cases, however, where the fugitive or wanted person is wanted for a money laundering offense under Title 18 or a Bank Secrecy Act crime under Title 31, his or her return information may not be disclosed or inspected for purposes of locating the individual because there is no

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authority to do so under I.R.C. § 6103, unless a "related statute determination" has been made. Thus, consistent with the action you have taken so far, the practice of routinely using return information to locate money laundering or Bank Secrecy Act fugitives and wanted persons, in the absence of a "related statute determination," should be permanently suspended.

If you have any further questions regarding this matter, please contact me at (202) 622-4460 or Chris Monica of the Criminal Tax Division at (202) 622-4470.

Attachment